

**MILPITAS PROFESSIONAL AND  
TECHNICAL GROUP (PROTECH)**

**AN AFFILIATE OF  
LIUNA/UPEC LOCAL 270, AFL-CIO**

**MEMORANDUM  
  
OF  
  
UNDERSTANDING**

**July 1, 2005 – June 30, 2008**

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**CITY OF MILPITAS AND MILPITAS PROFESSIONAL AND TECHNICAL GROUP  
(PROTECH),  
AN AFFILIATE OF LIUNA/UPEC LOCAL 270, AFL-CIO  
COMPREHENSIVE MEMORANDUM OF UNDERSTANDING ON SALARIES, FRINGE  
BENEFITS, AND WORKING CONDITIONS  
July 1, 2005 – June 30, 2008**

The authorized representatives of the City Council of the City of Milpitas, hereafter referred to as the "City" and the authorized representatives of the Milpitas Professional and Technical Group, hereafter referred to as the " Union" do jointly accept and agree to all the terms and conditions of employment set forth in this Comprehensive Memorandum of Understanding (MOU), pursuant to Section 15.13 of the Personnel Rules and Regulations of the City of Milpitas (as amended).

The term of this Memorandum of Understanding shall be for thirty-six (36) months commencing at 12:01 a.m., on July 1, 2005, and terminating at midnight, on June 30, 2008.

This Memorandum of Understanding shall apply to represented permanent and probationary employees hereafter referred to as "employee(s)" unless otherwise specifically indicated, assigned to those classes listed in the salary schedule set forth in Appendix "A" attached hereto. When classes are created which the City determines fall under the representation of the Union, this Understanding shall also apply.

The terms and conditions of employment set forth in this Memorandum of Understanding have been discussed in good faith by the authorized representatives of the City and the authorized representatives of this Union. The authorized representatives of the Union agree to recommend acceptance by the employees of all terms and conditions set forth herein. Following said acceptance by the employees authorized representatives of the City agree to recommend to the Milpitas City Council that all terms and conditions set forth herein be approved by resolution. Upon adoption of said resolution, all terms and conditions so incorporated shall become effective without further action by either party.

Unless otherwise specifically amended by the terms of this MOU, any term or condition of employment previously known to and approved by the City (and not terminated by the City) remains as previously established.

**SECTION 1.00 - EMPLOYEE RIGHTS**

- 1.01 Any employee in the City's competitive service may join, organize or maintain membership in a labor organization if the employee so desires. The City neither encourages nor discourages these activities, nor does membership or non-membership in any labor organization affect the employee's standing or right as a City employee. The right to join, organize or maintain membership in a labor organization is also extended to any association of municipal employees not identified with any labor organization.

The right to join a labor union or any association of municipal employees also includes the right not to join. Any employee desiring to join, remain a member, or become independent of any such organization or association must be free to exercise their right without undue influence, coercion, intimidation or pressure of any kind from any person.

## 1.02 Agency Shop Provision

- 1.02.1 Except as set forth in this provision, employees working in classifications represented by the Union (“represented employees”) must, as a condition of continued employment, either join the Union or pay the Union a service fee in an amount not to exceed the Union’s standard initiation fee, periodic dues, and general assessments. All represented employees must notify the City in writing of their election or claim of exemption within thirty (30) calendar days following (a) ratification of the MOU by the Milpitas City Council, (b) the employee commencing work as a represented employee, or (c) the employee returning to work for the City in a represented classification following a layoff or voluntary leave of absence of 60 or more calendar day, whichever is later.
- 1.02.2 If an employee fails to timely notify the City as required under Section 1.02.1, the Union may request in writing that the City begin deducting the service fee from the employee’s paychecks. The City shall begin deducting the service fee from the employee’s paychecks as soon as is practicable after receiving all of the following from the Union:
- (a) the Union’s written request to deduct the service fee; and
  - (b) certification from the Union that the employee has not (1) joined the Union, (2) voluntarily paid the Union the representation/service fee, or (3) qualified for an exemption; and
  - (c) certification from the Union that it has provided the employee with (a) and (b).
- 1.02.3 The Union shall provide the City advance written notice of any increase or decrease in the Union’s fees, dues or assessments that the Union believes warrants a change in the service fee to be deducted. The City shall implement such change, to the extent consistent with this provision and applicable law, within thirty (30) calendar days of receiving written notice from the Union.
- 1.02.4 Employees who are on voluntary leave without pay, temporarily working outside of a classification represented by the Union, or who have been terminated from employment or are otherwise not on the City’s payroll for any reason, including, but not limited to, layoffs, shall not be subject to the representation/service fee obligation.
- 1.02.5 Any employee who is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support the Union as a condition of employment. Such employee shall, in lieu of a service fee, pay an equal amount to the employee’s choice of the following: American Cancer Society, American Heart Association, Sickle Cell Anemia Foundation or any other recognized minority serviced organization which qualifies for tax exemption under Section 501(c) of the Internal Revenue Code. The employee shall make proof of such payments to the City on a monthly basis as a condition of continued exemption from the requirement of financial support to the Union.
- 1.02.6 The Union shall keep an adequate itemized record of its financial transactions and shall make available annually to the City and the Union’s members, within 60 days after the end of the Union’s fiscal year, a detailed written financial report in the form of a balance sheet

and an operating statement, certified as to accuracy by (a) its president and treasurer or corresponding principal officer, or (b) by a certified public accountant. To the extent the Union is required to file financial reports under the Labor-Management Disclosure Act of 1959 or under Labor Code section 3546.5, the Union may satisfy its financial reporting obligation to the City under this provision by providing the City with a copy of such financial reports.

- 1.02.7 This agency shop provision shall not apply to management, confidential, or supervisory employees. For purposes of this provision, "management employee" means an employee having responsibility for formulating, administering or managing the implementation of City policies and programs. "Confidential employee" means an employee who is privy to information that could affect employer-employee relations. "Supervisory employee" means any employee having authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
- 1.02.8 The Union shall pay for the City's defense, and indemnify the City, in connection with any administrative and/or legal challenge of an action taken by the City consistent with its obligations under this provision. The City reserves the right to select and retain its own counsel in connection with any such administrative and/or legal challenge.
- 1.03 City employees participating in organizational or other labor union activities or similar activities of any employee association are required to conduct such activities on their own time and not during regularly assigned working hours, with the following exceptions:
  - 1.03.1 A steward representing or assisting a fellow employee in the presentation of a grievance may utilize such time as is essential for the presentation of the grievance to management during working hours; however, solicitation of grievances shall be on the steward and employee's own time.
  - 1.03.2 Officials of any organization representing City employees may meet on City time with the City Manager or other City officials when such meeting times are approved by the City Manager.
  - 1.03.3 Representatives of the Union, having business (other than recruiting of members) with the officers or individual members of the Union may meet and confer with such officers or members during the course of the working day for a reasonable period of time provided that permission is first obtained from the Department Head, and the employee's immediate supervisor, and further provided that the conduct of such business will in no way conflict with the performance of City business.
- 1.04 Use of work place or premises for organizational activities other than the presentation of a grievance or the conduct of business as provided for above, is permitted only after working hours, with the advance notice to the Department Head or City Manager and shall in no way interfere with the performance of official duties of on-duty personnel. Official bulletin boards may be used only for notice of meetings of any employee organizations and for no other organizational purpose. The City shall, however, provide space upon request at any City facility for a union or

employee association furnished, installed and maintained bulletin board for posting of notices and bulletins and a magazine rack for the distribution of union or association literature.

- 1.05 For employees who may wish to belong to a public employees Association or Union, the City shall cause dues to be deducted where specifically authorized by the employee in advance. The employee may, at any time and for any reason, cancel his/her authorization for such a payroll deduction. The employee's cancellation of such authorized deductions shall in no way affect his/her job or standing as an employee.

1.06 Time off for Association Meetings/Trainings

The City shall provide annual paid release time for Association officers and members to conduct Association business such as negotiations, conventions, symposia, etc. excluding political activity, upon reasonable written notice to and prior approval by the appropriate department head. Release time shall not result in overtime by an employee. These events shall include but are not limited to:

<u>Event</u>	<u>Personnel</u>	<u>Time</u>
Labor Negotiations Training	2	5 days
Health Benefit Meetings	2	4 hours
CalPERS Meetings	2	1 day
Association Conferences	1	5 days
Total		144 hours

## **SECTION 2.00 - CITY RIGHTS**

- 2.01 The City continues to possess exclusively the rights listed below, plus all other rights to which by law the City is entitled. These rights may not be abridged or modified in any way, except by formal legislative action by the City Council (i.e. -- resolution or ordinance). The City has the right and may exercise its discretion:

- 2.02.1 To determine the mission of all constituent departments, commissions and boards;
- 2.02.2 To set standards of service;
- 2.02.3 To determine the appropriate levels of City services, except where defined in the MOU;
- 2.02.4 To take disciplinary action for just cause;
- 2.02.5 To determine the procedures and standards of selection for employment and the content of job classifications.
- 2.02.6 To organize and reorganize its departments and affairs, and to otherwise exercise complete control and discretion over its organization;
- 2.02.7 To relieve its employees from duty because of lack of work or other legitimate reasons;

- 2.02.8 To employ any appropriate means or method to maintain the efficiency of governmental operations and administration;
- 2.02.9 To determine the methods, means and personnel by which government operations are to be conducted;
- 2.02.10 To determine when an emergency exists and to take all necessary action to carry out its mission in emergencies, including recalling and deploying off-duty personnel and requiring that employees work overtime;
- 2.02.11 To exercise complete control and discretion over its organization and technology;
- 2.02.12 Except in case of emergency the City shall give written notice (30 days in advance of any contract with third parties which shall result in the lay-off, demotion, or transfer of any employee represented by the union and shall meet and confer with the union regarding the same upon reasonable written notice;
- 2.02.13 To direct employees, make assignments and require overtime work;
- 2.02.14 To transfer or reassign employees, as outlined in the MOU;
- 2.02.15 To layoff employees by position as result of: elimination of positions through City Council resolution; lack of work; budgetary considerations (including without limitation lack of funds or revenue downturn); reorganization; or other related reasons;
- 2.02.16 Any agreement between the City and the Union evidenced by a Memorandum of Understanding pursuant to Government Code Section 3500 et. seq. shall take precedence over any of the above enumerated employee and management rights; and that such a Memorandum of Understanding shall be honored in good faith during the life of this contract.
- 2.02.17 Any violation of the policies and procedures created by this MOU may be subject to disciplinary action as defined by this MOU.
- 2.02.18 The parties acknowledge that the City shall have the right to amend its personnel rules and regulations, personnel ordinances and resolutions, and employer-employee relations resolution during the term of the Memorandum of Understanding such rules and policies may be implemented after meeting and consulting, as appropriate, under the Meyers-Millias-Brown Act.

### **SECTION 3.00 - ADVANCE NOTICE AND APPEALS PROCEDURE**

Except in cases of emergency as provided in this section, the City shall give reasonable written notice to each recognized employee organization affected by an ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation including actions taken under City Rights that affect wages, hours and other terms and conditions of employment proposed to be adopted by the City and shall give such recognized employee organizations the opportunity to meet with City representatives.

## **SECTION 4.00 - DISCIPLINARY ACTION**

The City may take disciplinary action against any Employee for just cause. The City recognizes the practice of progressive discipline; however, depending on the severity of the offense, the City may immediately impose more severe discipline.

- 4.01 Grounds for Discipline: Discipline may be imposed for just cause, including without limitation for the following grounds:
  - 4.01.1 Fraud in securing appointment or falsification concerning records, fellow employees, or work performed;
  - 4.01.2 Failure to perform satisfactorily the duties and responsibilities of an employee's position;
  - 4.01.3 Neglect of duty;
  - 4.01.4 Insubordination;
  - 4.01.5 Reporting for or performing duty under impairment as a result of alcohol and/or drug use;
  - 4.01.6 Dishonesty or misuse of, or misappropriation of City property and funds;
  - 4.01.7 Conviction of any crime involving moral turpitude, or substantially relating to the function of an employee's position;
  - 4.01.8 Unauthorized absence without leave;
  - 4.01.9 Non-observance of work hours, including tardiness, and abuse of sick leave privileges;
  - 4.01.10 Discourteous or non-cooperative treatment of the public or other employees;
  - 4.01.11 Conduct, either during or outside of duty hours, which is of such a nature that it causes discredit to the employee's department or the City;
  - 4.01.12 Failure to abide by any condition of employment stipulated in the: Municipal Code; Personnel Rules and Regulations; any City or department policies or procedures; or Memoranda of Understanding approved by formal action of the Council;
  - 4.01.13 Knowingly filing or pursuing a false charge;
  - 4.01.14 Acts of violence towards fellow employees or members of the public in the workplace;
  - 4.01.15 Abuse of any City and/or Department policies and procedures.



#### 4.02 Pre disciplinary Procedures

4.02.1 Prior to taking any disciplinary action, as defined in Section 4.02.6, against a permanent employee, the City shall notify the employee and Union in writing of the following:

- (a) The proposed disciplinary action;
- (b) The nature of the charges and/or violation of City ordinances, resolutions, written procedures, municipal code, or departmental regulations and policies;
- (c) The reasons for the proposed action;
- (d) The materials upon which the action is based;
- (e) The opportunity of the employee to appear before a designated City representative and respond to the charges at a specified place and time;
- (f) The right of the employee to be represented by an attorney or other representative at any disciplinary conferences or proceedings.

4.02.2 If the City representative determines that he or she cannot be impartial, or upon timely written request by the employee or the Union, the Human Resources Director or designee may hear the employee's response.

4.02.3 Any employee notified pursuant to 4.02.1 above who desires an opportunity to respond may do so by appearing at the appointed place and time. Said response may be oral or in writing. The employee is not entitled to an evidentiary hearing, and the sole purpose of the meeting shall be to hear the response of the employee to the charges. The employee shall be entitled to representation, but shall not be entitled to present witnesses, unless the City determines that the presentation of witnesses is necessary.

4.02.4 In the event that the employee is unable to respond to the charges within the time permitted, and demonstrates the reasonableness of a continuance, the City may grant a continuance.

4.02.5 As soon as practical after the employee has had an opportunity to present a response, the City will notify the employee and the Union in writing of the nature and extent of the discipline, if any, and the time of commencement thereof. Said notification will also advise the employee of any right of appeal.

4.02.6 For the purposes of the application of the procedures outlined in sections 4.02.1 through 4.02.5, a disciplinary action shall be defined as a suspension of at least three (3) working days for those employees assigned to a standard 40-hour week, or an equivalent reduction in salary, demotion or discharge.

#### 4.03 Disciplinary Action

4.03.1 Written Reprimand: Repeated violations or more severe misbehavior may require a more formal response by the supervisor to the employee. In this case the employee is provided with a written memorandum which outlines the violations being addressed and the

expected actions to be taken by the employee in response to the memorandum. The written reprimand contains an indication of subsequent disciplinary steps to be taken in the event that the employee fails to respond appropriately. A copy of the written reprimand shall be placed in the employee's official personnel record. If the employee's performance appraisal review contains any reference to the letter of reprimand which has been removed from the employee's personnel file, that section or page of the employee's performance appraisal review shall be rewritten and any reference to the letter of reprimand shall be deleted at the written request of the employee.

- 4.03.2 The Human Resources Director shall remove a letter of reprimand from a personnel file based upon a written request submitted by the employee provided there has been no additional disciplinary actions during the subsequent twelve (12) months.
- 4.03.3 Suspension: In the event of more severe or repeated violations, the employee may be relieved of duty by the City for a specified period of time without pay. Such suspension shall not exceed thirty (30) calendar days and shall be subject to the procedures outlined in sections 4.02.
- 4.03.4 Reduction in Salary Range: In the event of more severe or repeated violations, the employee's salary may be reduced by the City within the range for the position held. Such reduction in salary shall be subject to the procedure outlined in Section 4.02 Reduction shall be made on a permanent or temporary basis.
- 4.03.5 Involuntary Demotion: In the event of more severe or repeated violations, the employee may be reduced in rank and pay by the City. Such demotion shall be in conformance with Section 4.02 Demotions shall be made on a permanent or temporary basis.
- 4.03.6 Termination of Employment: The City may terminate the employment of an employee for more severe or repeated violations of the City or Department rules, regulations, policies or procedures. Such termination shall be in conformance with Section 4.02.
- 4.04. Appeal of Discipline: An employee subject to disciplinary action as defined in section 4.02.6 may appeal the discipline pursuant to the grievance and arbitration process outlined in Section 8.00 of this MOU.

## **SECTION 5.00 - LAYOFF**

- 5.01 Any layoff shall be according to seniority and the procedures defined in Municipal Code Section VI-102.
  - 5.01.1 The City Manager, after review with the Department Head and the Human Resources Director, may lay off an Employee because of material change in duties, organization, or shortage of work or funds in the department or the City.
  - 5.01.2 The Human Resources Director shall notify the affected Employee(s) in writing at least thirty (30) days in advance of the intended layoff and of their option to accept a voluntary demotion in lieu of layoff.

- 5.01.3 Employees laid-off or accepting demotions in lieu of layoff shall be placed on a Re-Employment List in inverse order of displacement for an appropriate Class for three (3) years.

## **SECTION 6.00 - RESIGNATION**

An Employee wishing to resign in good standing shall file with the Department Head a written resignation at least two calendar weeks before the effective date of termination, stating the reasons for leaving. The resignation shall be forwarded to the Human Resources Director. Failure to comply with this requirement shall be entered in the service record of the Employee and may be cause for denying future employment with the City.

## **SECTION 7.00 - OTHER EMPLOYMENT**

- 7.01 Employees may engage in other employment or business activity that is not inconsistent, incompatible or in conflict with the Employee's duties.
- 7.02 An employee's outside employment, activity or enterprise may be prohibited if it:
- 7.02.1 Involves the use for private gain or advantage of City time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of the City office or employment.
  - 7.02.2 Involves receipt or acceptance by the Employee of any money or other consideration from anyone other than the City for the performance of an act which the Employee, if not performing such act, would be required or expected to render in the regular course of hours of City employment or as a part of regular duties.
  - 7.02.3 Involves the performance of an act, which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other Employee of the City, or has the potential for creating a conflict of interest.
  - 7.02.4 Involves such time demands as would reduce the Employee's efficiency.
- 7.03 Employees must obtain approval from their Department Head and the Human Resources Director of other employment or business activities in writing prior to engaging in such activities, unless such notice is impossible or impractical; in such cases notice shall be submitted on the Employee's next working day. Disapproval of other employment may be appealed to the City Manager whose decision shall be final. Other employment notices shall be kept in the Employee's personnel file and maintained according to Personnel Rules Section 11.00.
- 7.04 In application of MOU Section 7.00 - Other Employment, the City does not intend to take disciplinary action against any employee covered by the PROTECH Memorandum of Understanding who inadvertently and unintentionally fails to submit a notice of intent to engage in outside employment pursuant to Section 7.03, provided that such outside employment is not inconsistent, incompatible or in conflict with the employee's duties as defined in Section 7.02 (a) through (d).

Employees who engage in outside employment that is in conflict with their duties or who intentionally fail to submit a timely notice to engage in outside employment shall be subject to disciplinary action.

## **SECTION 8.00 - GRIEVANCE PROCEDURE**

### **8.01. Definition**

8.01.1 For the purposes of this section a “grievance” is any dispute which involves the interpretation or application of this Memorandum of Understanding (hereinafter “MOU”), or appeal of a formal disciplinary action. For the purposes of arbitration, a disciplinary action shall be defined in Section 4.02.6 of this MOU. Complaints or disputes in which a specific review is provided by law (i.e. OSHA, EEOC, DFEH) or by the City’s personnel rules, or reserved as city rights (except as provided in Personnel Rule Sections 15.05, 15.07) shall not be subject to the grievance procedure. If any party initiates litigation concerning a matter which is otherwise subject to the grievance process, the other party may (at their discretion) deem the litigating party as having elected court remedies and waived any rights under this grievance procedure. Performance appraisal reviews are not grievable.

8.01.2 A “grievant” is any Employee adversely affected by an alleged violation of the specific provisions of the MOU or a formal disciplinary action, or the Professional and Technical Group on behalf of more than one employee, adversely affected by an alleged violation of the specific provisions of the Memorandum of Understanding.

8.01.3 A “working day” is any day in which City Hall is open for business.

8.01.4 “Employee organization” is the Professional and Technical Group.

### **8.02 General Provisions**

8.02.1 Every effort will be made by the parties to settle grievances at the lowest possible level.

8.02.2 Until final disposition of a grievance, the grievant shall comply with the directions of the grievant’s immediate supervisor.

8.02.3 Documents dealing with the processing of a disciplinary grievance shall be filed in the personnel file of the grievant.

8.02.4 No party to a grievance shall take any reprisals against the other party to the grievance because the party participated in an orderly manner in the grievance procedure.

8.02.5 Failure of the grievant to adhere to the time deadlines shall mean that the grievance is withdrawn. The grievant and the City may extend any time deadline by written mutual agreement. Furthermore, if there is a mutual written agreement, the grievant may skip a step in the grievance process. The employee concerned shall be personally present at all stages of the grievance procedure unless that employee specifically waives the right in writing.

- 8.02.6 Every effort will be made to schedule meetings for the processing of grievances at times which will not interfere with the regular working day of the participants. If any grievance meeting or hearing must be scheduled during duty hours, any employee required by either party to participate as a witness or grievant in such meeting or hearing shall be released from regular duties without loss of pay for a reasonable amount of time. Overtime is not provided for off-duty time except for witnesses requested to testify by the City.
- 8.02.7 Either the City or the grievant may be represented at any step of the procedure by an individual of the party's choice.
- 8.02.8 Any employee may at any time present grievances to the City and have such grievances adjusted without the intervention of the Association, as long as the adjustment is reached prior to arbitration and is not inconsistent with the terms of this MOU or the Personnel Rules.
- 8.02.9 The City and the employee organization may agree to consolidate grievances at any level.

### 8.03 Procedure

- 8.03.1 Employees must initiate a written grievance within twenty (20) working days following the occurrence, or knowledge of the events on which the grievance is based. Failure to do so will result in the employee being barred from advancing the grievance. A grievance, or a copy of the grievance, should be provided to the grievant's supervisor, Department Head, and the Director of Human Resources.

#### 8.03.2 Elements of a Grievance

The written grievance shall include:

- (a) a description of the specific facts and grounds upon which the grievance is based including names, dates, and places necessary for a complete understanding of the grievance;
- (b) a specific explanation of how the grievant has been adversely affected;
- (c) listing of the provisions of the MOU which are alleged to have been violated;
- (d) a listing of specific actions requested by the grievant of the City which will remedy the grievance, including a specific dollar amount, and the basis for the dollar amount, of any alleged damages at issue, provided the employee has access to relevant financial data;
- (e) a statement declaring self representation or the selection of representation by the Association for said grievance;
- (f) the printed name and signature of the grievant;
- (g) the name, address and telephone number of the person(s) to whom notices may be sent regarding the grievance
- (h) date of grievance.

Grievances that fail to include these elements may not be considered or appealed unless the City waives this section.

#### 8.03.3 Informal Resolution

It is the intent to deal with and settle grievances informally, at the nearest practical organizational level, and as promptly and fairly as possible. An employee who has a grievance shall first try to settle it through discussions with the employee's immediate supervisor. The immediate supervisor shall respond within thirty (30) working days which may be extended ten (10) working days with notice to the grievant and/or the parties may by mutual agreement extend the time which is necessary to resolve the grievance. Any decisions rendered shall be consistent with the authority to do so. If the employee is not satisfied with the outcome of the informal resolution the employee may advance the grievance to Level I.

#### 8.03.4 Level I – Department Head

If the employee is not in agreement with the informal decision rendered, he/she shall have the right to file a formal written appeal to the Department Head (with a copy to the Human Resources Director) within fifteen (15) working days after the date a decision has been rendered. The appeal shall include a copy of the written response(s) provided by the City during the informal step of this grievance procedure. The appeal shall contain an explanation why the grievant believes the decision at the informal grievance step was unsatisfactory. The Department Head shall consider the grievance, and submit a written response within fifteen (15) working days.

#### 8.03.5 Level II– City Manager

If the employee is not in agreement with the decision rendered by the Department Head, he/she shall have the right to file a formal written appeal to the City Manager (with a copy to the Human Resources Director) within ten (10) working days after the date a decision has been rendered at Level I. This appeal shall include a copy of the written grievance, the grievant's appeal to Level I, and any written response(s) provided by the City during the prior steps of the grievance process. The appeal shall contain an explanation why the grievant believes the decision at Level I was unsatisfactory. The City Manager shall consider the grievance, and submit a written response within fifteen (15) working days. Unless the grievance is subject to arbitration (as defined herein), the City Manager's decision is final.

#### 8.03.6 Level III – Arbitration

- (a) If the matter is subject to arbitration as defined herein, and the grievant is not satisfied with the decision of the City Manager, the grievant may within fifteen (15) working days of the date of the decision submit a request in writing to the Human Resources Director that the grievance be submitted to arbitration. The grievant and the City shall attempt to agree upon an arbitrator. If no agreement can be reached, they shall request that the State Conciliation Service supply a panel of five (5) names of persons experienced in hearing grievances involving public employees. Each party shall alternately strike a name until only one (1) name remains. The remaining panel member shall be the arbitrator. The order of striking shall be determined by lot.
- (b) If either the City or the grievant so requests, an arbitrator shall hear the merits of any issue raised regarding arbitrability of a grievance first. No hearing on the

merits of the grievance will be conducted until the issue of arbitrability has been decided. If the issue of arbitrability is heard by an arbitrator and the arbitrator decides the underlying dispute is arbitrable, a different arbitrator shall hear the merits of the underlying grievance, if the City or the union so requests.

- (c) The arbitrator shall, as soon as possible, hear evidence and render a decision on the issues or issues. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step. A certified court reporter shall record the entire arbitration hearing unless the parties mutually agree otherwise.
- (d) The jurisdiction and authority of the arbitrator so selected and the opinions the arbitrator expresses will be confined exclusively to the interpretation of the express provision or provisions of the MOU. The arbitrator shall be without power or authority to make any decision that requires the City to do an act prohibited by law.
- (e) Arbitrators shall have no authority to award back pay or other monetary relief extending more than forty (40) days prior to submission of the initial written grievance except in cases of grievance claims for incorrect pay.
- (f) After a hearing and after both parties have had an opportunity to make written arguments, the arbitrator shall submit written findings and a decision, which is final and binding on all parties.
- (g) The fees and expenses of the arbitrator and the certified court reporter shall be shared equally by the City and the grievant, or employee organization, if the employee organization represents the grievant at the arbitration. Financial responsibility shall be confirmed prior to selection of an arbitrator. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other. A party requesting a transcript shall bear the cost thereof; or if each party receives a copy the cost will be shared equally.
- (h) This grievance procedure is the exclusive remedy to resolve disputes as described herein.

## **SECTION 9.00 - ANNUAL VACATION LEAVE**

9.01 All employees shall be entitled to paid annual vacation leave beginning at the end of the first six months of service with the City. However, vacation credits shall be accrued beginning with the date of initial appointment. Vacation is earned on an hourly basis. A day is defined as eight (8) work hours.

9.01.1 During the first through fourth years of service, vacation shall be computed at the rate of 11 working days per year.

9.01.2 From the fifth year of employment through the ninth year of employment, all covered employees shall accrue 16 prorated days of vacation leave for each year of service.

- 9.01.3 From the tenth year of employment through the fourteenth year of employment, all covered employees shall accrue 21 prorated days of vacation leave credit for each year of service.
- 9.01.4 From the fifteenth year of employment through the nineteenth year of employment, all covered employees shall accrue 26 prorated days of vacation leave credit for each year of service.
- 9.01.5 From the twentieth year of employment, all covered employees shall accrue 31 prorated days of vacation leave credit for each year of service.
- 9.02 Employees who work less than full time shall earn vacation credits on a pro-rated basis.
- 9.03 Each employee shall be required to have served the equivalent of one year of continuous service in the City in order to be eligible for the employee's full annual vacation leave, provided however, that after six months of continuous service the employee may be permitted to take vacation leave not to exceed forty (40) work hours.
- 9.04 The times during a calendar year at which an employee may take vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the municipal service. If the requirements of the municipal service are such that an employee must defer part or all of his/her annual vacation in a particular calendar year, the appointing power shall permit the employee to take such deferred vacation during the following calendar year or allow the employee to cash out said vacation at his/her option, to the extent of the deferred portion.
- 9.05 On the last day of the pay period that includes December 31, no employee may accumulate and carry-over more than 24 months of vacation credits or 260 work-hours of vacation, whichever is less, without the express approval of the City Manager. No employee shall be allowed to be on paid leave for a period of over three hundred and twenty (320) consecutive work hours.
- 9.06 In the event one or more municipal holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave.
- 9.07 Upon separation from the service for any reason, an employee shall be compensated for accrued vacation leave.
- 9.08 On or about December 1 of each year, each Department Head may circulate a vacation roster for the forthcoming calendar year. Employees are then encouraged to indicate vacation choices. On or about January 1 of each calendar year, the Department Head shall notify employees of the approved vacation calendar for the year. Approval shall be granted after the supervisor and Department Head give consideration to the employee's wishes and the needs of the City. Employees may change vacation dates with the approval of the Department Head. In the event the needs of the City necessitate canceling of vacation scheduled for a minimum of 90 days in advance, which results in a financial loss to an employee, the City shall reimburse the employee the full amount of loss provided the employee demonstrates the impossibility of obtaining a refund and can document the amount of loss. At the time of making an expenditure, each employee shall advise the Department Head of the amount of said expenditure. In the event an



employee fails to advise the Department Head, the employee may lose all rights to reimbursement.

- 9.09 Each fiscal year, an employee may elect to cash out a maximum of forty (40) hours of accrued vacation, and an employee whose annual vacation accrual rate exceeds one hundred and twenty (120) hours may elect to cash out a maximum of eighty (80) hours as follows:
- (a) The employee uses at least one full workday of paid vacation leave. Vacation cash-outs must be requested in advance and are contingent upon having an approved vacation leave within thirty (30) days, either before or after; and
  - (b) Requests for cash-outs other than during approved vacations must be submitted to Finance for payment in June by May 31<sup>st</sup> or in December by November 30<sup>th</sup> of each year.

#### **SECTION 10.00 - SICK LEAVE**

- 10.01 Employees shall be granted paid sick leave credits beginning with date of original employment at the rate of 12 prorated days for each year of service. Employees become eligible to take accrued sick leave upon completion of one full month of continuous service. Sick leave shall not be considered as a privilege, which an employee may use at the employee's discretion, but shall be allowed only in case of necessity and actual sickness or disability. Medical or dental appointments may be charged against sick leave, but shall be limited to a maximum of four (4) hours per appointment and should be scheduled and approved in advance. Approval of sick leave for appointments in excess of four (4) hours are subject to the discretion of the Division Head. The City Manager shall direct and enforce such administrative control as may be necessary to prevent abuse of sick leave privilege.
- 10.02 Employees who work less than full-time shall earn sick leave on a pro-rated basis.
- 10.03 For employees hired on or before July 17, 1999, the City agrees to pay an employee who is separating from the City in good standing with at least five (5) years service an amount equal to 2-1/2% per year of service for unused accrued sick leave. The pay-out formula shall be: 2.5% x years of service x highest hourly rate x sick leave hours accrued. Good standing shall be based on the employee's overall work record and the decision of the Human Resources Director. (See Sections 22.02 and 22.02.1.)
- 10.03.1 For employees hired on or before July 17, 1999, each November, an employee with five or more years of service may elect to cash out accrued sick leave. Payout shall be in accordance with appropriate pay out formulas described in section 10.03. However, the maximum annual amount shall not exceed 50% of employee's sick leave balance. Employees eligible for this benefit shall at all times maintain a sick leave balance of at least 240 hours.
- 10.04 The City agrees to provide PERS Credit for Unused Sick Leave provision (20965)—see MOU Section 22.02.1.

## **SECTION 11.00 - FAMILY LEAVE**

- 11.01 Employees having available sick leave to their credit may draw upon such sick leave for family medical purposes when a member in the employee's immediate family is involved.
- 11.01.1 As defined for the purpose of this section, family medical purposes shall be construed to mean illness, accident, medical appointments or other related occurrences.
- 11.01.2 Immediate family is defined to include: mother, mother –in-law, father, father-in-law, spouse, domestic partner, brother, sister, son, daughter, grandparent, grandchild, adoptive parents or adoptive children, whether the immediate family is of the employee's or the employee's spouse's family.
- 11.01.3 Each employee shall be allowed to use a maximum of eighty (80) hours of sick leave per fiscal year for this purpose. Additional leave may be granted in unusual circumstances by the Human Resources Director.
- 11.01.4 In addition, each employee shall be allowed to use fourteen (14) days of accrued sick leave for birth or adoption of a child.

## **SECTION 12.00 - COMPASSIONATE LEAVE**

- 12.01 The City agrees to provide compassionate leave when death occurs to a member of the employee's immediate family not to exceed one week. (40 hours)
- 12.02 Immediate family is defined to include: mother, mother –in-law, father, father-in-law, spouse, domestic partner, brother, sister, son, daughter, grandparent, grandchild, adoptive parents or adoptive children, whether the immediate family is of the employee's or the employee's spouse's family.
- 12.03 Salary paid during this leave is not deducted from any leave balance. Additional leave may be granted in special circumstances by the City Manager or designee.
- 12.04 In special circumstances, the City Manager or designee may allow an employee to utilize compassionate leave for individuals who are not members of the employee's immediate family.

## **SECTION 13.00 - MILITARY LEAVE**

- 13.01 Military leave shall be granted, in accordance with the provisions of State and Federal Law. Employees entitled to military leave shall give the appointing power an opportunity within the limits of military regulations to determine when such leave shall be taken.

## **SECTION 14.00 - LEAVE OF ABSENCE**

- 14.01 The Human Resources Director may grant a Permanent Employee leave of absence without pay not to exceed one year. Leave shall be considered upon written request of the Employee.

- 14.01.1 Human Resources Director shall consider the recommendation of the Department Head, departmental workload, the best interests of the City, the Employee's duration of employment, the Employee's performance record, and the reason for the leave.
- 14.01.2 Any Permanent Employee with a non-work-related injury or medical condition who has exhausted all sick leave may request a leave of absence with a doctor's certificate. At the City's discretion and expense, the City at any time may require a medical exam at a facility selected by the City.
- 14.01.3 On leave without pay status shall not earn any employment benefits (including, but not limited to, such benefits as vacation leave, medical benefits, sick leave, retirement benefits, credit for time employed or seniority entitlements of any kind) for the period of such status. It is the intent of this subsection that one on leave without pay status is deemed unemployed for the period of such status in terms of earning benefits.
- 14.01.4 The City Manager may authorize continuation of the employee's elected medical and/or dental coverage for all or part of the duration of leave without pay. This shall be done only in extraordinary circumstances and when it is deemed to be in the best interest of the City.
- 14.02 A Department Head shall have the authority to approve an unpaid leave not to exceed 160 work hours per fiscal year.
- 14.03 Nothing herein shall preclude an employee from waiving in writing the right to reinstatement as a condition to approval for a leave of absence. Any employee who waives the right may be reinstated in accordance with the City's Personnel Rules & Regulations as if they had been subject to a reduction in force, except that they shall be placed at the bottom of a reemployment list for any position for which they qualify.

#### **SECTION 15.00 - JURY LEAVE**

- 15.01 When called to serve on a jury, an employee shall be given leave with pay to do so subject to these conditions:
  - 15.01.1 The employee shall notify the Department Head immediately upon receipt of the notice to serve; and
  - 15.01.2 Any payment received by the employee while on jury leave for serving on the jury shall be remitted to the City, except for mileage allowance and out-of-pocket expenses.

#### **SECTION 16.00 – WORKERS’ COMPENSATION LEAVE**

- 16.01 Employees unable to work because of a work-related illness or injury are eligible for worker's compensation leave, provided that the Employee has notified superiors of the illness or injury and the claim has not been denied by the Human Resources Director or worker's compensation insurance administrator authorized by the City.

- 16.02 For all Employees, worker's compensation leave per incident, shall be paid up to a maximum of 320 hours according to the following table,

HOURS			SALARY RATE
First	80	@	100%
Next	240	@	80%

This leave shall cover all time off from work related to the injury, including doctor's appointments and therapy treatments, provided that said hours do not exceed available workers' compensation leave. Following a maximum of 320 hours of workers' compensation leave, the City shall discontinue direct workers' compensation payments to the employee. This benefit shall be prorated based on the budgeted position. An employee may apply separately for long-term disability insurance, which becomes effective after 320 hours of workers' compensation.

Any employee sustaining such injury or disability may be entitled to compensation to the extent provided by the State Workers' Compensation Insurance Act. An employee who has exhausted eligible workers' compensation leave shall receive full salary to the extent the employee's accrued sick leave or vacation time may be integrated.

- 16.03 An Employee returning from a work-related injury shall be reinstated to the position occupied at the time the injury occurred subject to written release by the attending physician.
- 16.04 Injured Employees designated permanent and stationary or accepted into a qualified rehabilitation program and unable to return to their prior occupations may be involuntarily terminated or retired.
- 16.05 The City is currently developing a policy on the subject of light duty. ProTech agrees to meet and confer with the City during the term of the MOU regarding the policy.

## **SECTION 17.00 - OVERTIME**

- 17.01 Employees who work more than a standard forty (40) hour workweek shall be compensated as follows:
- 17.01.1 All overtime shall be compensated at the rate of time and one-half pay or the equivalent in compensatory time off (CTO) in lieu of overtime pay.
  - 17.01.2 In the event the City requires the employee to work overtime, overtime pay or accrual of CTO shall be at the discretion of the employee. However, the determination as to whether overtime pay or CTO shall be taken must be made by the employee at the time the "Request for Additional Pay" form is submitted to the supervisor for signature. Usage of CTO shall be scheduled at the convenience of the City and may be used in the same manner as vacation leave.
  - 17.01.3 A minimum of two hours pay or its equivalent in compensatory time off, at the rate of time and one-half, to be taken at the convenience of the city shall be guaranteed for any employee who, after leaving the employee's place of duty, is required to return to work.

- 17.01.4 Employees who work less than eight (8) minutes beyond their normal work hours shall not receive overtime.
- 17.01.5 Overtime occurring on a paid City holiday shall result in pay or CTO at the rate of time and one half in addition to base pay.
- 17.01.6 CTO may be accrued by the employee throughout the year. However, the accrued hours may not exceed eighty (80) on the last day of the pay period that includes December 31. Hours in excess of that limit on that date shall be paid to the employee on the following paycheck, and the accrual bank shall be reduced to eighty (80) hours.
- 17.01.7 Any paid accrued leave, specifically sick leave, vacation leave, compensation leave, or compensatory time off, taken by an employee during any work week shall be counted as hours worked for the purpose of calculating overtime.
- 17.01.8 If a Building Inspector, Public Works Inspector or Housing and Neighborhood Specialist is required to work overtime which extends past 12:00 a.m., the employee will not be required to report to their next regular scheduled shift until eight (8) hours after the completion of the overtime. The employee shall be paid from the beginning of their regular scheduled shift.

## **SECTION 18.00 - HOLIDAYS**

18.01 The following shall be paid holidays for the City of Milpitas employees:

- 1. January 1 (New Year's Day)
- 2. Third Monday in January (Observance of Dr. Martin Luther King Jr.'s Birthday)
- 3. February 12 (President Lincoln's Birthday)
- 4. Third Monday in February (Observance of President Washington's Birthday)
- 5. Last Monday in May (Observance of Memorial Day)
- 6. July 4 (Independence Day)
- 7. First Monday in September (Labor Day)
- 8. November 11 (Veteran's Day)
- 9. Thanksgiving Day
- 10. Day after Thanksgiving
- 11. Christmas Eve (to be observed last working day prior to Christmas Day)
- 12. Christmas Day
- 13. One Floating Holiday<sup>1</sup>

18.01.1 In the event a holiday falls on a Sunday, the following Monday shall be the holiday instead.

18.01.2 In the event a holiday falls on a Saturday, the preceding Friday shall be the holiday instead.

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<sup>1</sup> Each employee shall receive one "Floating Holiday" every calendar year. The Floating Holiday will become effective the first day of January or on the date of hire. Floating Holiday must be used during the calendar year accrued. Prior approval must be received in order to utilize the Floating Holiday.

- 18.01.3 Any other holiday declared by the City Council as a City Holiday for City employees.
- 18.01.4 For other than five (5) day workweeks, any workweek which includes one or more holidays shall be reduced in hours commensurately. The number of days worked during the workweek shall be subject to the approval of the Department Head.
- 18.02 Where one of these holidays falls on a working day, employees shall be granted the day off with pay and City offices shall be closed except for such municipal services that must be maintained on an around-the-clock basis seven days a week. Employees who work less than full time shall be entitled to credit for paid holidays on a pro-rated basis. Employees required to perform their regular duties on a holiday shall be granted pay or compensatory time off, at the rate of time and one-half in addition to base salary. For the purposes of this section a holiday shall be deemed to begin and end at 12 midnight.
- 18.03 Employees shall be permitted to take Good Friday as a vacation day by submitting a written request at least two weeks in advance to the supervisor.

### **SECTION 19.00 – TRAINING**

- 19.01 If an employee is directed to participate in a training program, which is related to their job, the City shall provide compensation for the following:
- a. Regular wages for time away from the job (if during working hours);
  - b. Overtime or compensatory time off whenever an employee's combined training time and work time exceeds forty (40) hours in a workweek;
  - c. Costs of tuition and/or registration for the training;
  - d. Reimbursement for authorized transportation cost to and from the training. (i.e. Mileage reimbursement if an employee uses their personal automobile as allowed by the City. However, if employees car-pool to a training session, only the employee who is the owner of the automobile shall be entitled to mileage reimbursement).
- 19.02 Participation in and successful completion of training course may be considered in making employment advancements and promotions.

### **SECTION 20.00 - ATTENDANCE**

#### **20.01 General**

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and leaves.

#### **20.02 Unauthorized Absence**

- 20.02.1 An employee whose absence is not authorized shall not receive pay or benefits for the absent period and shall be subject to discipline. Failure on the part of the employee absent without leave to return to duty shall be grounds for discharge. It shall be the responsibility of an employee absent without leave to notify the Department Head of the reason the employee is absent and of the employee's availability for duty.
- 20.02.2 Except in emergency situations when an employee is physically unable to do so, an employee shall report absence by 10:00 a.m. of the same day, to the supervisor or higher authority. Failure to do so may result in an unauthorized absence.
- 20.03 Breaks

Employees shall be entitled to the privilege of two 15-minute breaks during each standard workday.
- 20.04 Responsibility to Maintain Service

No employee shall schedule a break at such time as to leave the office in which the employee works unstaffed.

  - 20.04.1 Persons whose responsibility includes public contacts shall advise a responsible person in their office before leaving for a break.
  - 20.04.2 Persons alone in an office should leave a sign on the door, lock the door, and advise the receptionist before leaving for a break, in order to ease the handling of incoming phone calls and customers that call at the office.
- 20.05 Limitations for Breaks
  - 20.05.1 For workdays from 8:00 a.m. to 5:00 p.m., the morning break shall be taken between 9:30 a.m. and 11:00 a.m., and the afternoon break shall be taken between 2:30 p.m. and 4:00 p.m.
  - 20.05.2 For irregular workdays, breaks shall be taken after the first one- and-one-half hours and before the last hour of each half shift.

## **SECTION 21.00 - PAY PLAN**

- 21.01 Advancement shall be based on satisfactory performance and increased service value of an employee to the City as exemplified by the recommendations of the supervising official, length of service, performance record, special training undertaken or other pertinent evidence. No salary advancement shall be made so as to exceed the maximum rate established in the pay plan for the class of to which the advanced employee's position is allocated.
- 21.02 In administering the Pay Plan, the following rules shall be observed:
  - 21.02.1 Step "A" is the minimum rate for a position and shall be the hiring rate for said position. Initial appointment at a rate higher than Step "A" may be made in the case

of an unusually well qualified person or where other special conditions warrant, but only with prior approval of the City Manager.

- 21.02.2 Step "B" represents an incentive adjustment. An employee shall be eligible for Step "B" only after completion of one year from the date of employment on recommendation from the Department Head and approval of the City Manager.
  - 21.02.3 Step "C" represents the rate at which a qualified and experienced employee should be paid after a reasonable period of service. An employee shall become eligible for Step "C" only after he/she has proven himself/herself satisfactory in the given classification for a period of at least one year after completion of his/her probationary period, upon recommendation of the Department Head and approval of the City Manager.
  - 21.02.4 Step "D" represents an incentive adjustment for satisfactory performance and increased effectiveness. An employee shall become eligible for. Step "D" after completion of one year at Step "C" upon recommendation of the Department Head and approval of the City Manager.
  - 21.02.5 Step "E" represents an incentive adjustment for increasingly satisfactory performance. An employee shall be eligible for Step "E" after completion of one year at Step "D" upon recommendation of the Department Head and approval of the City Manager.
  - 21.02.6 Employees who have demonstrated outstanding ability may be advanced to the next higher step prior to completion of one year's service at the current step upon recommendation of the Department Head and approval of the City Manager.
- 21.03 Performance Appraisal Review - Performance appraisals are an important personnel tool, and the City should endeavor to make them promptly.
- 21.04 The City shall evaluate employee's annually from their date of hire or the date they entered their classification. The classification date shall supersede the hire date. In any case, an employee must be evaluated at the completion of probation, be it initial, or as a result of promotion. Effective September 1, 1995, if an employee does not receive a performance appraisal on the date it is due and is not at the top step of the salary range for his/her classification, the Human Resources Department shall process the forms necessary to advance the employee to the next step in the pay range effective the first pay period following the anniversary date. Supervisors must complete a Performance Appraisal Review on a timely basis if they intend to withhold a step advancement for the employee.
- If a supervisor subsequently finds that the employee was entitled to a step increase (under this Section) as of that due date, and did not receive it, the step increase shall become effective retroactively as of the due date of the performance appraisal.
- If an employee does not receive a performance appraisal within 30 working days after it is due the employee shall have the right to file a grievance. The contents of the "PAR" are not grievable. Grievances are to be conducted under the rules of Section 8.00 etc. of this MOU.
- 21.05 Salary Following Promotion



Employees receiving a promotion shall receive at least a 5% increase in salary unless limited by the maximum salary range.

- 21.06 In the event an employee receives overpayment by the City, the employee shall reimburse the City for the total overpayment. Typically, such repayment shall occur over a schedule equal to the amount of time over which the overpayment occurred, and the City may obtain reimbursement by payroll deduction. However, at the employee's request, the City may extend such repayment over a longer period, to be determined by mutual agreement of the employee and the Finance Director.
- 21.07 "Y" Rate Policy: Whenever an employee would sustain an actual decrease in salary as a result of downward reclassification or reorganization within an existing department unit, without fault or inability on the part of the employee, the City Council shall adopt a "Y" rate to apply only to the employee so affected. A "Y" rate is defined as a monthly salary rate for an individual employee, which is greater than the established range for the employee's class. An employee for whom a "Y" rate is established shall not receive any increase in salary until such time as the employee's rate of compensation is within the established range for the employee's class. An employee who accepts a reassignment to a lower paid position in-lieu of layoff, shall not be "Y" rated.

## **SECTION 22.00 - RETIREMENT PLAN**

- 22.01 The City agrees to continue the 2.7% @ 55 Public Employees' Retirement System (PERS) retirement benefit for the term of this contract, including the final year compensation amendment and 1959 Survivors Benefit in full force and effect.
- Effective July 1, 1995, the City agrees, as allowed under Internal Revenue Code Section 414(h)(2), the implementation of the Public Employees' Retirement System (PERS) "Pick-Up" program (TDMC) as outlined in PERS Circular Letter 100-364. In completing the conversion to the IRS 414 (h) (2) program, the increase in salary shall be calculated on the employee's base salary:
- 22.02 Upon retirement, disability retirement, or death, for those employees who were hired on or before July 17, 1999, and who had at least five (5) years of service, the City shall pay the separating employee or his or her estate, for unused accrued sick leave. The amount paid shall be equal to 2.5% per year of service for unused accrued sick leave. The pay-out formula shall be: 2.5% x years of service x highest hourly rate x sick leave hours accrued.
- 22.02.1 Upon retiring with PERS, all employees shall be eligible for the PERS Credit for Unused Sick Leave provision (20965) of the City's PERS Retirement plan. Employees hired on or before July 17, 1999, may elect either the payout formula in Section 22.02 or the PERS Credit for Unused Sick Leave plan.
- 22.03 For the purpose of this section, an employee who is retiring is one who has submitted an application for retirement to the Public Employees Retirement System (PERS).
- 22.03 Sick Leave Pay-Out Provision for Retiring Employees - Medical Continuation: The City agrees to permit retiring employees to apply sick leave pay out funds to the cost of continuing a family medical plan provided that there shall be no additional cost to the City in permitting the employee to continue medical coverage, except for reasonable administrative costs.

## 22.04 Retiree Medical

- 22.04.1 For permanent employees hired before July 1, 1995, and retired between July 1, 1990 and September 1, 2002, who had at least five (5) years of service in the City of Milpitas, the City agrees to pay any single, medical premium rate, as long as the retiree maintains enrollment in one of the eligible health plans.
- 22.04.2 For permanent employees hired before July 1, 1995, and retired after September 1, 2002, who had at least five (5) years of service in the City of Milpitas, the City agrees to pay up to the single, medical premium rate (at a rate no higher than any single plan paid by City for active employees), as long as the retiree maintains enrollment in one of the eligible health plans.
- 22.04.3 For permanent employees hired on or after July 1, 1995, and retiring on or after September 1, 2002, the City agrees to pay up to the single, medical premium rate (at a rate no higher than any single plan paid by City of active employees), as long as the retiree maintains enrollment in one of the eligible health plans and shall be subject to the following provisions with respect to the retirement benefits:
  - 22.04.3.1 Upon completion of the first through the ninth year of service, and upon retirement, the City shall provide 25% of the medical insurance premium payment for the employee only, as long as the employee remains in one of the City sponsored eligible health care programs.
  - 22.04.3.2 Upon completion of the ninth year, this payment of the retiree's medical insurance shall increase to 50%.
  - 22.04.3.3 Upon completion of the fourteenth year, this payment of the retiree's medical insurance shall increase to 75%.
  - 22.04.3.4 Upon completion of the nineteenth year, this payment of the retiree's medical insurance shall increase to 100%.
  - 22.04.3.5 Once any retiree becomes Medicare eligible, the City shall pay up to the appropriate Medicare rate per the above sections.
  - 22.04.3.6 Retirees may elect to continue coverage for a dependent under the retiree dependent medical fund provided that the dependent is covered by the group plan at the time the employee retires and maintains enrollment as set forth in Section 22.05.2.

## 22.05 RETIREE DEPENDENT HEALTH CARE

### 22.05.1 The Retiree Dependent Health Care Fund

Each year, the City will contribute 1% of payroll with benefits to a fund to be used to help pay the medical premiums of retirees' dependents (the "Fund"). The City's annual 1% of payroll with benefits contribution shall be recalculated each year based on ProTech's payroll as of the last full pay period in June. The City will annually

deposit this amount in the Fund approximately fifteen (15) days following the last day of the last full pay period in June.

The City will periodically present a report to the ProTech president indicating the City's annual contribution, the total dollars in the Fund, and a brief description of how and the extent to which the 1% was used in the previous fiscal year to pay for the medical premiums of retirees' dependents. The City will use this report to set retiree dependent contribution rates.

## 22.05.2 Contributions From the Fund Toward Retiree Dependent Premiums

Contributions from the Fund toward the medical premiums of retirees' dependents shall be as follows:

- 22.05.2.a For permanent ProTech employees hired before July 1, 1995, and retired on or after December 5, 2006 (City Council adoption), who have at least five (5) years of full-time or equivalent service with the City of Milpitas, the City agrees to pay from the Fund up to the family, medical premium rate (at a rate no higher than any family plan paid by the City for active employees), as long as the retiree maintains enrollment in one of the eligible health plans.
- 22.05.2.b For permanent ProTech employees hired on or after July 1, 1995, and retired on or after December 5, 2006 (City Council adoption), who have at least five (5) years of full-time or equivalent service with the City of Milpitas; the City agrees to pay from the Fund up to the family, medical premium rate (at a rate no higher than any family plan paid by the City for active employees), as long as the retiree maintains enrollment in one of the eligible health plans and shall be subject to the following provisions with respect to the retirement benefits:
  - 22.05.2.b.1 Upon completion of the first through the ninth year of service, and upon retirement, the City agrees to provide 25% of the medical insurance premium payment from the Fund for the retiree dependent, as long as the employee remains in one of the City sponsored eligible health care programs.
  - 22.05.2.b.2 Upon completion of the ninth year, this payment of the retiree's dependent medical insurance shall increase to 50%.
  - 22.05.2.b.3 Upon completion of the fourteenth year, this payment of the retiree's dependent medical insurance shall increase to 75%.
  - 22.05.2.b.4 Upon completion of the nineteenth year, this payment of the retiree's dependent medical insurance shall increase to 100%.
  - 22.05.2.b.5 Once any dependent becomes Medicare eligible, the City agrees to pay from the Fund up to the appropriate Medicare rate per the above sections.

22.05.3 In no case will the City be required to place funds in the Fund above the 1% of payroll with benefits amount. If funds are depleted before the next year's City contribution is due, dependent medical premiums will be the responsibility of the retiree and/or dependent. If less than 1% of payroll with benefits is used in a given year for the medical premiums of retirees' dependents, the remainder shall remain in the Fund and may be used in future years to supplement the City's annual 1% of payroll with benefits contribution if this contribution is insufficient in a given year to make all the payments set forth in 22.05.2.b above.

## **SECTION 23.00 - BENEFITS**

23.01 The City shall provide active employees the CalPERS medical insurance for health benefits. The total monthly health benefit per employee shall be based on the Kaiser rates for employee, employee + 1, and family plan, etc. Only employees who have eligible dependents shall be compensated above the single rate plans.

23.01.1 The City reserves the right to discontinue offering any of the medical plans due to any of the following:

- a. The plan imposes exorbitant costs upon the City;
- b. The health care carrier refuses to provide services to the City;
- c. The health care provider no longer offers the services; or
- d. The health plan is discontinued.

23.01.2 If the City discontinues use of CalPERS health care, to the extent possible, the City will provide similar services.

23.01.3 The City will provide a life insurance policy in the amount of \$50,000.00 for each full-time member of the Association.

23.01.4 The City shall provide a Short Term Disability Plan that at a minimum will provide similar coverage to the one the members of the Association possess as of June 30, 2001.

23.01.5 The City shall provide a Long Term disability Plan that at a minimum will provide similar coverage to the one the members of the Association possess as of June 30, 2001.

23.01.6 Payroll deductions for benefit costs above the City benefit contribution shall be permitted, provided that the City shall not assume unreasonable administrative costs.

23.01.7 Employees who are covered as an eligible dependent under another health insurance plan may waive health coverage and receive a total of one hundred and twenty-five dollars (\$125.00) per month. Employees who wish to waive health insurance coverage must complete the City of Milpitas' "Health Insurance Waiver" indicating they agree to abide by the terms and conditions of the waiver.

23.02 Benefit Contribution – Regular Part-Time Employees: The City agrees to contribute monthly premiums for medical, dental and life insurance in an amount to reflect hours budgeted, pro-rated

against the amount contributed for full time employees. For example, half-time employees may elect to take any or all of the benefits and the City and the employee will both pay 50% or half of the elected benefit cost(s). The City agrees to provide short-term disability and long-term disability insurance benefits, with similar coverage to the one the employees possess as of June 30, 2001, at no cost to part-time employees.

#### **SECTION 24.00 - WORK OUT OF CLASS**

- 24.01 The City agrees that upon specific written assignment by the Department Head, or the designated representative, an employee may be required to assume the duties, responsibilities, authority and accountability of a higher classification. Such assignment shall be made only to existing authorized positions, which are not currently occupied due to the temporary absence of the regularly appointed employee. Such assignment shall not be made to vacant positions.
- 24.02 Employees assigned to duties of a higher class for at least sixteen (16) hours shall be compensated at a rate up to 10% above the employee's current base salary, except where such increase exceeds the pay range allocated to the assigned position. The employee shall be compensated at the appropriate rate retroactive to the start of the assignment.
- 24.03 An employee seeking additional training in another class may waive his/her right to work out of class pay in order to pursue desired training.

#### **SECTION 25.00 - TEMPORARY APPOINTMENTS**

Any employee receiving a temporary appointment to a vacant position for at least forty (40) hours shall be paid at an hourly rate based on the class of the position filled. Any employee who has satisfactorily served in a temporary capacity for a minimum of three months, and is selected for a permanent appointment to the same class by the appointing authority, may receive credit towards completion of the probationary period up to the duration of the temporary appointment.

#### **SECTION 26.00 - NO DISCRIMINATION**

- 26.01 The City of Milpitas shall not discriminate in employment practice in regard to race, color, ancestry, national origin, religious creed, sex, sexual preference, age, medical condition (cured or rehabilitated cancer), physical handicap, marital status, or political opinion or affiliation or Association activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.
- 26.02 The Association shall not restrict its membership in regard to race, color, ancestry, national origin, religious creed, sex, sexual preference, age, medical condition (cured or rehabilitated cancer), physical handicap, marital status, or political opinion or affiliation or Association activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.

#### **SECTION 27.00 - SALARY**

- 27.01 The monthly salary schedules labeled Appendix “A - D” and attached hereto are hereby made a part of this Memorandum of Understanding.

July 2005	0%
July 2006	1%
January 2007	2%
July 2007	3%

- Retroactive to the first full pay period in July 2006, all represented employees shall receive a 1% general wage increase to their base salary.
- Effective the first full pay period of January 2007 represented employees shall receive a 2% general wage increase to their base salary.
- Effective the first full pay period of July 2007 represented employees shall receive a 3% general wage increase to their base salary.
- The contract expires on June 30, 2008.
- The July 2006 pay increase shall only apply to employees who are in an active pay status in the first pay period following the date this MOU is approved by the City Council.

#### **SECTION 28.00 - BILINGUAL ASSIGNMENT**

- 28.01 The City agrees to pay a premium of 2.5% of base pay to employees with bilingual skills in positions which the City has determined the use of bilingual skills are necessary or desired to serve the Milpitas community.

- 28.01.1 Bilingual assignment shall be recommended by the Department Head and approved by the City Manager. In order to receive bilingual assignment, the employee must undergo and pass the appropriate testing to be certified as bilingual. The Department Head with the approval of the City Manager shall have the authority to terminate bilingual assignments when either: (1) the need no longer exists; (2) the number of employees who are certified as bilingual is more than is needed for the department; or (3) employees certified as bilingual are only called upon periodically to translate.
- 28.01.2 Employees may request to be tested for bilingual certification at any time. Authorization for testing is subject to the needs of the department as determined by the Department Head and approved by the City Manager or designee. The method for such certification shall be the same for all bargaining units having bilingual assignment provisions.

## **SECTION 29.00 - WORK SCHEDULES**

- 29.01 All employees shall work a standard bi-weekly schedule of eighty (80) hours. The Department Head shall have the authority to review and as necessary modify the work schedule each January 1 and July 1. Said schedule shall be circulated 30 calendar days prior to the beginning of each January 1 or July 1, respectively to all affected employees. In establishing the schedule, consideration shall be given to the staffing needs of the department and the concerns of the employees. It is understood and agreed, that this shall not restrict or limit the ability of the City to modify schedules to respond to emergencies or immediate service needs of the City.
- 29.02 An employee may request consideration of a flexible work schedule to meet legitimate personal needs, such as childcare, transportation, etc. The Department Head shall consider each such request, and based on the needs of the City and the employee, make a final determination.
- 29.03 The City agrees to review requests for Alternate Work Schedules. Proposals for alternate work schedules shall be evaluated within each department and for each position. Alternate work schedules may not be appropriate for all departments or employees. In reviewing requests, the City shall take into consideration the City's desire to maintain a level of service, determined by the City, in addition to the employees needs. The Department Head shall make a recommendation to the City Manager, whose decision is final and not grievable.

Alternate work schedules, which have been approved, shall be subject to Section 29.01.

## **SECTION 30.00 - HEALTH & SAFETY**

- 30.01 Employees' Safety Committee: The City is committed to the concept that the work place be a safe environment for all employees. In recognition of the City's and the Association's mutual interest in mitigating and/or eliminating present and future health hazards in the work place, an Employees' Safety Committee shall be created.
- 30.02 For classifications in the Building Inspectors and Public Works Inspectors series, the City shall reimburse up to \$175 per employee per fiscal year towards the purchase of safety prescription eyeglasses provided that they are not fully covered by the employee's health plan. Replacement costs may be covered upon approval of the Human Resources Director if there has been a significant change in the employee's prescription or damage occurred as a result of a work-related accident.
- 30.03 The City of Milpitas will assess the workstations of employees under the guidance of a specialist in Ergonomics. The Ergonomic specialist shall make recommendations and the City of Milpitas will act accordingly.
- 30.04 The City shall reimburse an employee up to \$175 per fiscal year for eyeglasses when prescribed by a physician for use at a video display terminal, provided the glasses are not fully covered by the employee's health care plan. The employee must apply for any available insurance coverage.
- 30.05 For Building Inspectors and Public Works Inspectors, the City shall provide up to \$200 reimbursement per employee per fiscal year for the purchase of safety shoes and accessories with the provision that said footwear meets safety guidelines set by the City.

For classifications in the Housing and Neighborhood Preservation Specialists, Plan Checkers, and Engineers series, the City shall provide up to \$200 reimbursement per employee bi-annually, on a fiscal year basis, for the purchase of safety shoes and accessories with the provision that said footwear meets safety guidelines set by the City.

- 30.06 It is understood that the wearing of said items is mandatory for field work when reimbursement is provided.

### **SECTION 31.00 - MISCELLANEOUS**

- 31.01 Working Hours: Any modification of hours of employment, which are not diminimus, shall be subject to the rules and regulations of the Meyers-Millias-Brown Act ("MMBA").
- 31.02 Replacement of Personal Articles: City may replace, within reason, personal articles damaged or stolen during performance of duty upon recommendation of the individual's immediate supervisor and Department Head. The prior condition of the article, precautions taken to protect the article, and the exercise of proper judgment of wearing or using an expensive article on the job that has certain hazards connected with it shall be considered in determining the amount of replacement. An employee must obtain prior approval from his/her supervisor to bring in and use personal articles in the line of work.
- 31.03 Negotiations: Negotiations for a new Memorandum of Understanding shall commence by the written notification by either party to the other by March 1 of the last contract year.

### **SECTION 32.00 - EMPLOYEE FITNESS PROGRAM AT THE MILPITAS SPORTS CENTER**

- 32.01 The City of Milpitas agrees to provide to the employees a fitness program that allows employees the opportunity to participate in City-sponsored sports and fitness programs at no cost during the employee's non-working hours. All conditions and requirements regarding the "fitness center" are located in the Fitness Center S.O.P

### **SECTION 33.00 - LATERAL TRANSFERS**

- 33.01 Employees shall be considered for lateral transfer subject to the following conditions:
- 33.01.1 The transfer must be recommended by both the outgoing and incoming supervisor and approved by the Department Head.
  - 33.01.2 The transfer must be approved by both the outgoing and incoming Department and/or Division Head.
  - 33.01.3 Probationary employees shall not be eligible for lateral transfer.
  - 33.01.4 Employees who are transferred by request between Departments or between different classifications shall be subject to a new six-month probationary period. Employees



failing to complete probation following such a transfer shall be reinstated to the position from which transferred.

- 33.01.5 Employees who are performing “below expectations” or “unsatisfactory” shall not be considered. This shall be determined by examination of the most recent employee appraisal on file. If the appraisal on file is more than ten (10) months old, a new appraisal shall be done prior to the time the transfer is finalized.
- 33.01.6 All vacant permanent positions shall be opened to lateral transfer within the same classification.
- 33.01.7 Written notice of a vacant permanent position shall be circulated by the hiring section's supervisor. The notice shall include the opening and closing dates for the acceptance of lateral transfer requests.
- 33.01.8 A period of ten (10) working days shall be allowed during which written requests for lateral transfer must be submitted by any interested employee.
- 33.01.9 Requests shall be reviewed and all applicants notified of their status and scheduled for an oral interview within five (5) working days of the closing date.
- 33.01.10 Oral interviews of eligible employees shall be conducted by the hiring supervisor.
- 33.01.11 Written notice of the results of the interview process shall be made by the hiring supervisor within five (5) working days of the last interview.
- 33.01.12 Exceptions to the above process due to working conditions and/or the needs of the City may be approved by the Department Head.

#### **SECTION 34.00 - MILEAGE REIMBURSEMENT**

- 34.01 When available, the City shall furnish vehicles from the City's car pool to conduct official City business. In the event a pool car is unavailable, the employee shall use the employee's own vehicle on a temporary basis.
- 34.02 An employee shall receive authorization from their Department Head or their designee prior to using the employee's own vehicle.
- 34.03 Temporary basis shall be defined as no more than five (5) consecutive working day unless otherwise agreed to by the employee. Employees who use their car on a temporary basis shall be reimbursed by the City at the rate established by the IRS.
- 34.04 Any employee who drives their own vehicle on official City business must have a valid California driver's license and proof of valid insurance.
- 34.05 The City assumes liability in connection with the use of a vehicle while on official City business unless the employee is found guilty of being negligent, reckless or under the influence of a controlled substance.

### **SECTION 35.00 - TUITION REIMBURSEMENT**

- 35.01 The City of Milpitas will provide a tuition reimbursement program for educational activities which are job related and approved in advance by the Department Head and the Human Resources Director. The amount of the fund shall not exceed the amount budgeted for this purpose. Subject to the availability of monies in the fund, individual employees are subject to a total reimbursement of \$1,400 per fiscal year. Reimbursement is subject to the guidelines outlined in the Tuition Reimbursement S.O.P.

### **SECTION 36.00 -- NO STRIKE CLAUSE**

- 36.01 The Union, on its own behalf and on behalf of the unit employees it represents, agrees that during the term of this MOU, and throughout all periods when there is any effort or procedure underway to arrive at a successor MOU and during any period when the law specifically prohibits strike activity, there will be no strikes, work stoppages, concerted unauthorized absences, slow-downs, or refusals to cross picket lines of any sort; and that the Local will not directly or indirectly encourage or condone such actions by unit employees, and will undertake all possible steps to cause any such actions to cease.
- 36.02 Any bargaining unit member violating this provision shall be subject to disciplinary action up to and including termination of employment.
- 36.03 This provision may be specifically enforced in any court of competent jurisdiction.

### **SECTION 37.00 LIUNA NATIONAL (INDUSTRIAL) PENSION FUND**

- 37.01 Effective December 6, 2006, the City shall pay a monthly sum amount equal to fifty-six cents (\$0.56) per hour per employee covered by this MOU, up to forty (40) hours per week of budgeted/approved work hours that the employee is on paid status.
- 37.02 The amount shall be paid to the LIUNA Pension Fund, to an address specified by PROTECH.
- 37.03 The amount shall be prorated for employees working less than forty (40) hours.
- 37.04 The City shall not make contributions for hours in excess of forty hours per week.
- 37.05 The monthly payments shall be for the term of this Memorandum of Understanding. The subject payment shall be for every regular employee that is covered by this agreement.
- 37.06 This MOU shall not be construed to create a vested right that can be asserted against the City.

This comprehensive Memorandum of Understanding represents a complete and final understanding of all issues negotiated between the City representatives and the Association's representatives and is endorsed this 5th day of December 2006.

ASSOCIATION REPRESENTATIVES

CITY REPRESENTATIVES

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Dorsey Wiseman, President

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Carmen Valdez, Human Resources Director

---

Gloria Anaya

---

Bill Marion

---

Veronica Bejines

---

Babak Kaderi

---

Nancy Mendizabal

---

Linda Momii

---

Kyle Spencer

---

Chris Schaller

---

Carlos Lujan  
Business Manager, LIUNA Local 270

---

Tim McCormick, LIUNA  
Advocate-Organizer, LIUNA Local 270

## APPENDIX “A”

SALARY SCHEDULE			
As of July 1, 2005			
Job Classification	Monthly Salary		
Accountant	\$ 5,857.35	-	\$ 7,119.71
Accounting Technician	\$ 4,750.24	-	\$ 5,773.84
Assistant Civil Engineer	\$ 6,531.05	-	\$ 7,938.56
Assistant Planner	\$ 5,913.18	-	\$ 7,187.53
Assistant Transportation Planner	\$ 5,913.18	-	\$ 7,187.53
Associate Civil Engineer	\$ 7,510.64	-	\$ 9,129.32
Associate Planner	\$ 6,800.15	-	\$ 8,265.62
Building Permit Technician	\$ 4,675.34	-	\$ 5,682.91
Building/NP Inspector	\$ 6,338.52	-	\$ 7,704.49
CAD Technician	\$ 5,439.48	-	\$ 6,515.79
Cashier	\$ 3,925.65	-	\$ 4,771.67
Desktop Technician	\$ 5,196.36	-	\$ 6,316.09
Document Processing Technician	\$ 4,341.94	-	\$ 5,277.63
Electrical/Building Inspector	\$ 6,655.48	-	\$ 8,089.73
Engineering Aide	\$ 5,193.87	-	\$ 6,313.08
Engineering Permit Technician	\$ 4,675.34	-	\$ 5,682.91
Fire Protection Engineer	\$ 7,312.83	-	\$ 8,888.73
Fiscal Assistant I	\$ 3,925.65	-	\$ 4,771.67
Fiscal Assistant II	\$ 4,318.19	-	\$ 5,248.77
Housing and Neighborhood Specialist	\$ 4,984.50	-	\$ 6,058.78
Junior Civil Engineer	\$ 5,937.27	-	\$ 7,216.84
Junior Planner	\$ 5,375.59	-	\$ 6,534.04
Junior Transportation Planner	\$ 5,375.59	-	\$ 6,534.04
Neighborhood Preservation Assistant	\$ 4,236.83	-	\$ 5,149.88
Office Assistant I	\$ 3,413.71	-	\$ 4,149.36
Office Assistant II	\$ 3,754.94	-	\$ 4,564.06
Office Specialist	\$ 4,318.17	-	\$ 5,248.77
Plan Check Engineer	\$ 7,312.83	-	\$ 8,888.73
Plan Checker	\$ 6,338.52	-	\$ 7,704.49
Program Coordinator	\$ 4,705.74	-	\$ 6,194.13
Public Services Assistant I	\$ 3,925.65	-	\$ 4,771.67
Public Services Assistant II	\$ 4,318.19	-	\$ 5,248.77
Public Works Inspector	\$ 6,338.52	-	\$ 7,704.49
Recreation Services Assistant I	\$ 2,218.95	-	\$ 2,697.18
Recreation Services Assistant II	\$ 2,634.62	-	\$ 3,202.64
Recreation Services Assistant III	\$ 3,028.46	-	\$ 3,681.04
Recreation Services Assistant IV	\$ 3,553.09	-	\$ 4,318.84
Senior Building Inspector	\$ 7,320.93	-	\$ 8,898.63
Senior Fiscal Assistant	\$ 4,750.01	-	\$ 5,773.67
Senior Housing and Neighborhood Specialist	\$ 5,848.51	-	\$ 7,108.56
Senior Plan Check Engineer	\$ 8,044.05	-	\$ 9,777.65
Senior Public Works Inspector	\$ 7,320.99	-	\$ 8,898.63

## APPENDIX “B”

SALARY SCHEDULE			
As of July 09, 2006			
Job Classification	Monthly Salary		
Account Technician	\$ 4,797.74	-	\$ 5,831.58
Accountant	\$ 5,915.92	-	\$ 7,190.91
Assistant Civil Engineer	\$ 6,596.36	-	\$ 8,017.95
Assistant Planner	\$ 5,972.31	-	\$ 7,259.41
Assistant Transportation Planner	\$ 5,972.31	-	\$ 7,259.41
Associate Civil Engineer	\$ 7,585.75	-	\$ 9,220.61
Associate Planner	\$ 6,868.15	-	\$ 8,348.28
Building Permit Technician	\$ 4,722.09	-	\$ 5,739.74
Building/NP Inspector	\$ 6,401.91	-	\$ 7,781.53
CAD Technician	\$ 5,493.87	-	\$ 6,580.95
Cashier	\$ 3,964.91	-	\$ 4,819.39
Desktop Technician	\$ 5,248.32	-	\$ 6,379.25
Document Processing Technician	\$ 4,385.36	-	\$ 5,330.41
Electrical/Building Inspector	\$ 6,722.03	-	\$ 8,170.63
Engineering Aide	\$ 5,245.81	-	\$ 6,376.21
Engineering Permit Technician	\$ 4,722.09	-	\$ 5,739.74
Fire Protection Engineer	\$ 7,385.96	-	\$ 8,977.62
Fiscal Assistant I	\$ 3,964.91	-	\$ 4,819.39
Fiscal Assistant II	\$ 4,361.37	-	\$ 5,301.26
Housing & Neighborhood Special	\$ 5,034.35	-	\$ 6,119.31
Junior Civil Engineer	\$ 5,996.64	-	\$ 7,289.01
Junior Planner	\$ 5,429.35	-	\$ 6,599.38
Junior Transportation Planner	\$ 5,429.35	-	\$ 6,599.38
Neighborhood Preservation Assistant	\$ 4,279.20	-	\$ 5,201.38
Office Assistant I	\$ 3,447.85	-	\$ 4,190.85
Office Assistant II	\$ 3,792.49	-	\$ 4,609.70
Office Specialist	\$ 4,361.35	-	\$ 5,301.26
Plan Check Engineer	\$ 7,385.96	-	\$ 8,977.62
Plan Checker	\$ 6,401.91	-	\$ 7,781.53
Program Coordinator	\$ 4,752.80	-	\$ 6,256.07
Public Service Assistant I	\$ 3,964.91	-	\$ 4,819.39
Public Services Assistant II	\$ 4,361.37	-	\$ 5,301.26
Public Works Inspector	\$ 6,401.91	-	\$ 7,781.53
Recreation Services Assistant I	\$ 2,241.14	-	\$ 2,724.15
Recreation Services Assistant II	\$ 2,660.97	-	\$ 3,234.67
Recreation Services Assistant III	\$ 3,058.74	-	\$ 3,717.85
Recreation Services Assistant IV	\$ 3,588.62	-	\$ 4,362.03
Senior Building Inspector	\$ 7,394.14	-	\$ 8,987.62
Senior Fiscal Assistant	\$ 4,797.51	-	\$ 5,831.41
Senior Housing and Neighborhood Specialist	\$ 5,907.00	-	\$ 7,179.95
Senior Plan Check Engineer	\$ 8,124.49	-	\$ 9,875.43
Senior Public Works Inspector	\$ 7,394.20	-	\$ 8,987.62

## APPENDIX “C”

SALARY SCHEDULE			
As of January 07, 2007			
Job Classification	Monthly Salary		
Account Technician	\$ 4,893.70	-	\$ 5,948.21
Accountant	\$ 6,034.24	-	\$ 7,334.73
Assistant Civil Engineer	\$ 6,728.29	-	\$ 8,178.30
Assistant Planner	\$ 6,091.76	-	\$ 7,404.59
Assistant Transportation Planner	\$ 6,091.76	-	\$ 7,404.59
Associate Civil Engineer	\$ 7,737.46	-	\$ 9,405.03
Associate Planner	\$ 7,005.51	-	\$ 8,515.24
Building Permit Technician	\$ 4,816.54	-	\$ 5,854.53
Building/NP Inspector	\$ 6,529.94	-	\$ 7,937.17
CAD Technician	\$ 5,603.75	-	\$ 6,712.57
Cashier	\$ 4,044.20	-	\$ 4,915.77
Desktop Technician	\$ 5,353.29	-	\$ 6,506.84
Document Processing Technician	\$ 4,473.07	-	\$ 5,437.01
Electrical/Building Inspector	\$ 6,856.48	-	\$ 8,334.04
Engineering Aide	\$ 5,350.72	-	\$ 6,503.74
Engineering Permit Technician	\$ 4,816.54	-	\$ 5,854.53
Fire Protection Engineer	\$ 7,533.68	-	\$ 9,157.17
Fiscal Assistant I	\$ 4,044.20	-	\$ 4,915.77
Fiscal Assistant II	\$ 4,448.60	-	\$ 5,407.28
Housing & Neighborhood Special	\$ 5,135.03	-	\$ 6,241.69
Junior Civil Engineer	\$ 6,116.58	-	\$ 7,434.79
Junior Planner	\$ 5,537.93	-	\$ 6,731.37
Junior Transportation Planner	\$ 5,537.93	-	\$ 6,731.37
Neighborhood Preservation Assistant	\$ 4,364.78	-	\$ 5,305.41
Office Assistant I	\$ 3,516.80	-	\$ 4,274.67
Office Assistant II	\$ 3,868.34	-	\$ 4,701.89
Office Specialist	\$ 4,448.58	-	\$ 5,407.28
Plan Check Engineer	\$ 7,533.68	-	\$ 9,157.17
Plan Checker	\$ 6,529.94	-	\$ 7,937.17
Program Coordinator	\$ 4,847.85	-	\$ 6,381.19
Public Service Assistant I	\$ 4,044.20	-	\$ 4,915.77
Public Services Assistant II	\$ 4,448.60	-	\$ 5,407.28
Public Works Inspector	\$ 6,529.94	-	\$ 7,937.17
Recreation Services Assistant I	\$ 2,285.96	-	\$ 2,778.63
Recreation Services Assistant II	\$ 2,714.19	-	\$ 3,299.36
Recreation Services Assistant III	\$ 3,119.92	-	\$ 3,792.21
Recreation Services Assistant IV	\$ 3,660.39	-	\$ 4,449.27
Senior Building Inspector	\$ 7,542.02	-	\$ 9,167.37
Senior Fiscal Assistant	\$ 4,893.46	-	\$ 5,948.03
Senior Housing and Neighborhood Specialist	\$ 6,025.14	-	\$ 7,323.55
Senior Plan Check Engineer	\$ 8,286.98	-	\$ 10,072.94
Senior Public Works Inspector	\$ 7,542.08	-	\$ 9,167.37

## APPENDIX “D”

SALARY SCHEDULE			
As of July 08, 2007			
Job Classification	Monthly Salary		
Account Technician	\$ 5,040.51	-	\$ 6,126.66
Accountant	\$ 6,215.27	-	\$ 7,554.77
Assistant Civil Engineer	\$ 6,930.14	-	\$ 8,423.65
Assistant Planner	\$ 6,274.51	-	\$ 7,626.73
Assistant Transportation Planner	\$ 6,274.51	-	\$ 7,626.73
Associate Civil Engineer	\$ 7,969.59	-	\$ 9,687.18
Associate Planner	\$ 7,215.68	-	\$ 8,770.70
Building Permit Technician	\$ 4,961.03	-	\$ 6,030.17
Building/NP Inspector	\$ 6,725.84	-	\$ 8,175.28
CAD Technician	\$ 5,771.86	-	\$ 6,913.94
Cashier	\$ 4,165.53	-	\$ 5,063.25
Desktop Technician	\$ 5,513.89	-	\$ 6,702.04
Document Processing Technician	\$ 4,607.26	-	\$ 5,600.12
Electrical/Building Inspector	\$ 7,062.17	-	\$ 8,584.06
Engineering Aide	\$ 5,511.25	-	\$ 6,698.85
Engineering Permit Technician	\$ 4,961.03	-	\$ 6,030.17
Fire Protection Engineer	\$ 7,759.69	-	\$ 9,431.88
Fiscal Assistant I	\$ 4,165.53	-	\$ 5,063.25
Fiscal Assistant II	\$ 4,582.06	-	\$ 5,569.50
Housing & Neighborhood Special	\$ 5,289.08	-	\$ 6,428.94
Junior Civil Engineer	\$ 6,300.07	-	\$ 7,657.83
Junior Planner	\$ 5,704.07	-	\$ 6,933.31
Junior Transportation Planner	\$ 5,704.07	-	\$ 6,933.31
Neighborhood Preservation Assistant	\$ 4,495.73	-	\$ 5,464.57
Office Assistant I	\$ 3,622.31	-	\$ 4,402.91
Office Assistant II	\$ 3,984.39	-	\$ 4,842.95
Office Specialist	\$ 4,582.04	-	\$ 5,569.50
Plan Check Engineer	\$ 7,759.69	-	\$ 9,431.88
Plan Checker	\$ 6,725.84	-	\$ 8,175.28
Program Coordinator	\$ 4,993.29	-	\$ 6,572.63
Public Service Assistant I	\$ 4,165.53	-	\$ 5,063.25
Public Services Assistant II	\$ 4,582.06	-	\$ 5,569.50
Public Works Inspector	\$ 6,725.84	-	\$ 8,175.28
Recreation Services Assistant I	\$ 2,354.54	-	\$ 2,861.99
Recreation Services Assistant II	\$ 2,795.61	-	\$ 3,398.34
Recreation Services Assistant III	\$ 3,213.52	-	\$ 3,905.97
Recreation Services Assistant IV	\$ 3,770.21	-	\$ 4,582.75
Senior Building Inspector	\$ 7,768.28	-	\$ 9,442.39
Senior Fiscal Assistant	\$ 5,040.26	-	\$ 6,126.48
Senior Housing and Neighborhood Specialist	\$ 6,205.89	-	\$ 7,543.25
Senior Plan Check Engineer	\$ 8,535.59	-	\$ 10,375.12
Senior Public Works Inspector	\$ 7,768.35	-	\$ 9,442.39

**MEMORANDUM OF UNDERSTANDING  
BENCHMARK CLASSES AND RELATED CLASSES**

<b>Job Classification</b>	<b>Approximate Differential</b>
Housing and Neighborhood Pres. Spec	Benchmark
Senior Housing and Neighborhood Pres. Spec	10% above Benchmark
Accountant	Benchmark
Associate Transportation Planner	15% above Benchmark
Associate Planner	15% above Benchmark
Assistant Transportation Planner	Benchmark
Assistant Planner	Benchmark
Junior Planner	9% below Benchmark
Transportation Planning Aide	21% below benchmark
Building Permit Technician	26% below benchmark
Building Inspector	Benchmark
Electrical/Building Inspector	5% above Benchmark
Senior Building Inspector	10% above Electrical Inspector
Public Works Inspector	Set at Benchmark
Senior Public Works Inspector	15% above Benchmark
Associate Civil Engineer	15% above Benchmark
Assistant Civil Engineer	Benchmark
Junior Civil Engineer	9% below Benchmark
Engineering Aide	20% below benchmark
Plan Checker	15% below benchmark
Fire Protection Engineer	Benchmark
Plan Check Engineer	Benchmark
Sr. Plan Check Engineer	10% above Benchmark
Program Coordinator	18% above Benchmark
Fiscal Assistant II	Benchmark
Fiscal Assistant I	9% below benchmark
Cashier	9% below benchmark
Public Services Assistant II	Set at benchmark
Public Services Assistant I	9% below benchmark
Office Specialist	Benchmark
Office Assistant II	13% Below benchmark
Office Assistant I	21% Below benchmark

The parties agree and understand that the City of Milpitas believes the above listed "benchmarks" to be accurate.



**MEMORANDUM OF UNDERSTANDING  
REGARDING PILOT DENTAL PLAN PROGRAM  
CITY OF MILPITAS AND THE UNDERSIGNED  
LABOR ORGANIZATIONS**

**WHEREAS**, the parties have discussed ways in which to achieve cost savings and other reforms relative to the dental insurance program affecting various employees and officials of the City of Milpitas; and

**WHEREAS**, the City has met and conferred with the appropriate labor organizations representing affected City employees; and

**WHEREAS**, the parties have come to an agreement on a pilot dental program; and

**WHEREAS**, this plan will cover all employees who are represented by the labor unions listed on Attachment A, as well as other employees and officials listed on Attachment A; and

**WHEREAS**, this plan is projected to achieve a substantial cost savings to the City, while nevertheless providing excellent dental coverage to City employees and officials;

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. The City will seek to contract with Delta Dental to serve as the third party administrator for the City's self-funded, dental insurance program with an annual calendar year maximum. The program will cover the employees, retirees, dependents of employees and retirees, and officials listed in Attachment A (hereafter the "covered employees"). The contract will become effective January 1, 2007. If there are any delays or problems with the contract and its effective date, the City will notify affected labor organizations and discuss alternative arrangements.

2. For active employees and officials, the City will contribute up to the monthly premium toward dental benefits. For eligible retirees, the City will contribute up to 50% of the contribution for actives per retiree, per month, toward dental benefits. MSA Retirees please refer to MSA MOU section 32.07.

3. The annual calendar year maximum for the program shall be \$3500 per covered employee and dependent(s) per calendar year after satisfaction of the first, second, and third year calendar year maximum designations based on length of employment. Unused amounts may not be carried forward into a succeeding calendar

year. Claims payment is subject to the rules, exclusions and procedures provided for in the dental plan administered by Delta Dental on behalf of the employees covered by this MOU.

4. This is a pilot program that the parties intend to evaluate after approximately one year. This program supersedes and replaces all other dental programs. No later than October 2007, the parties agree to meet to review the cost, administration, and overall effectiveness of the program and to make a determination whether to adopt, continue, alter, or discontinue the program. When the parties meet they also agree to review the plan's overall costs in order to consider a potential 15% reduction in the premiums paid by retirees. If the parties do not agree to continue the program, they will meet and confer on an alternative program.

5. The labor organizations who are parties to this MOU agree to multi-union negotiations, such that one labor organization cannot drop out and obtain different benefits.

For the City of Milpitas:

Carmen Valdez  
Carmen Valdez, Acting Director of Human Resources

10/18/06  
Date

Leslie Stobbe  
Leslie Stobbe, Representative of LIUNA  
For: Mid-Management & Confidential Unit

10/12/06  
Date

Dorsey Wiseman  
Dorsey Wiseman, PROTECH President  
For: Milpitas Professional and Technical Group

10/23/06  
Date

Eddie Lored  
Eddie Lored, MSA President  
For: Milpitas Supervisors Association

13 Oct. 06  
Date

Paul Mullett  
Paul Mullett, MEA President  
For: Milpitas Employees Association

10/18/06  
Date

Tim McCormick  
Tim McCormick, Business Agent  
For: LIUNA Local 270

10/20/06  
Date

## Attachment A

[illegible]